

Senate File 384

SENATE FILE _____
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 45)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the Iowa education savings plan trust and to
2 the taxation of activities involving out-of-state qualified
3 state tuition programs and including effective and
4 retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 SF 384
7 mg/cc/26

PAG LIN

1 1 Section 1. Section 12D.1, unnumbered paragraph 1, Code
1 2 2003, is amended to read as follows:
1 3 The general assembly finds that the general welfare and
1 4 well-being of the state are directly related to educational
1 5 levels and skills of the citizens of the state, and that a
1 6 vital and valid public purpose is served by the creation and
1 7 implementation of programs which encourage and make possible
1 8 the attainment of higher education by the greatest number of
1 9 citizens of the state. The state has limited resources to
1 10 provide additional programs for higher education funding and
1 11 the continued operation and maintenance of the state's public
1 12 institutions of higher education and the general welfare of
1 13 the citizens of the state will be enhanced by establishing a
1 14 program which allows citizens of the state to invest money in
1 15 a public trust for future application to the payment of higher
1 16 education costs. The creation of the means of encouragement
1 17 for citizens to invest in such a program represents the
1 18 carrying out of a vital and valid public purpose. In order to
1 19 make available to the citizens of the state an opportunity to
1 20 fund future higher education needs, it is necessary that a
1 21 public trust be established in which moneys may be invested
1 22 for future educational use. ~~It is also necessary to establish~~
~~1 23 an endowment fund which may be funded with public funds, among~~
~~1 24 other sources, the income from which will be made available to~~
~~1 25 participants in the trust to enhance their savings invested~~
~~1 26 for the payment of future higher education costs.~~
1 27 Sec. 2. Section 12D.1, subsections 5 and 13, Code 2003,
1 28 are amended by striking the subsections.
1 29 Sec. 3. Section 12D.2, subsections 4, 8, and 12, Code
1 30 2003, are amended to read as follows:
1 31 4. Accept any grants, gifts, legislative appropriations,
1 32 and other moneys from the state, any unit of federal, state,
1 33 or local government, or any other person, firm, partnership,
1 34 or corporation which the treasurer of state shall deposit into
1 35 the administrative fund, ~~the endowment fund,~~ or the program
2 1 fund.
2 2 ~~8. Solicit and accept for the benefit of the endowment~~
~~2 3 fund gifts, grants, and other moneys, including legislative~~
~~2 4 appropriations and grants from any federal, state, or local~~
~~2 5 governmental agency.~~
2 6 12. Invest moneys from ~~the endowment fund and the program~~
2 7 fund in any investments which are determined by the treasurer
2 8 of state to be appropriate.
2 9 Sec. 4. Section 12D.3, subsections 2 and 3, Code 2003, are
2 10 amended to read as follows:
2 11 2. Beneficiaries designated in participation agreements
2 12 may be designated from date of birth ~~up to, but not including,~~
~~2 13 their eighteenth birthday. A substitute beneficiary may be~~
~~2 14 older than age eighteen provided that the substitute~~
~~2 15 beneficiary is not shall not be older than the original~~
2 16 beneficiary.
2 17 ~~3. A participant's account balance shall be refunded to~~
~~2 18 the participant, less endowment fund earnings, and less a~~
~~2 19 refund penalty levied by the trust against account balance~~
~~2 20 earnings, if any, in the event an account balance remains in~~

2 21 the account for a thirty-day period following the
2 22 ~~beneficiary's thirtieth birthday.~~
2 23 Sec. 5. Section 12D.4, Code 2003, is amended by striking
2 24 the section and inserting in lieu thereof the following:
2 25 12D.4 PROGRAM AND ADMINISTRATIVE FUNDS == INVESTMENT AND
2 26 PAYMENTS.
2 27 1. The treasurer of state shall segregate moneys received
2 28 by the trust into two funds: the program fund and the
2 29 administrative fund.
2 30 2. All moneys paid by participants in connection with
2 31 participation agreements shall be deposited as received into
2 32 separate accounts within the program fund.
2 33 3. Contributions to the trust made by participants or
2 34 received in the form of gifts, grants, or donations may only
2 35 be made in the form of cash.
3 1 4. A participant or beneficiary shall not provide
3 2 investment direction regarding program contributions or
3 3 earnings held by the trust.
3 4 5. Moneys accrued by participants in the program fund of
3 5 the trust may be used for payments to any institution of
3 6 higher education.
3 7 Sec. 6. Section 12D.5, Code 2003, is amended by striking
3 8 the section and inserting in lieu thereof the following:
3 9 12D.5 CANCELLATION OF AGREEMENTS.
3 10 A participant may cancel a participation agreement at will.
3 11 Upon cancellation of a participation agreement, a participant
3 12 shall be entitled to the return of the participant's account
3 13 balance.
3 14 Sec. 7. Section 12D.6, subsections 1 and 2, Code 2003, are
3 15 amended to read as follows:
3 16 1. a. A participant retains ownership of all payments
3 17 made under a participation agreement up to the date of
3 18 ~~utilization for payment of higher education costs for~~
3 19 ~~distribution to the beneficiary.~~
3 20 b. All income derived from the investment of the payments
3 21 made by the participant shall be considered to be held in
3 22 trust for the benefit of the beneficiary.
3 23 2. In the event the program is terminated prior to ~~payment~~
3 24 ~~of higher education costs for distribution to the beneficiary,~~
3 25 the participant is entitled to a refund of the participant's
3 26 account balance.
3 27 ~~No right to receive investment income shall exist in cases~~
3 28 ~~of voluntary participant cancellation except as provided in~~
3 29 ~~section 12D.5.~~
3 30 Sec. 8. Section 12D.9, subsection 1, paragraphs c, d, and
3 31 e, Code 2003, are amended to read as follows:
3 32 c. Pursuant to section 12D.4, subsection 1, ~~paragraph "b"~~
3 33 ~~2~~, a separate account is established for each beneficiary.
3 34 d. Pursuant to section 12D.4, subsection 1, ~~paragraph "f"~~
3 35 ~~3~~, contributions may only be made in the form of cash.
4 1 e. Pursuant to section 12D.4, subsection 1, ~~paragraph "g"~~
4 2 ~~4~~, a participant or beneficiary shall not provide investment
4 3 direction regarding program contributions or earnings held by
4 4 the trust.
4 5 Sec. 9. Section 12D.9, subsection 1, paragraph f, Code
4 6 2003, is amended by striking the paragraph.
4 7 Sec. 10. Section 12D.9, subsection 2, Code 2003, is
4 8 amended to read as follows:
4 9 2. State income tax treatment of the Iowa educational
4 10 savings plan trust shall be as provided in section 422.7,
4 11 subsections 32~~7~~ ~~and 33, and 34, and section 422.35, subsection~~
4 12 ~~14.~~
4 13 Sec. 11. Section 12D.10, subsection 1, Code 2003, is
4 14 amended to read as follows:
4 15 1. The assets of the trust, including the program fund ~~and~~
4 16 ~~the endowment fund~~, shall at all times be preserved, invested,
4 17 and expended solely and only for the purposes of the trust and
4 18 shall be held in trust for the participants and beneficiaries.
4 19 Sec. 12. Section 422.7, subsection 34, Code 2003, is
4 20 amended by striking the subsection.
4 21 Sec. 13. Section 422.7, Code 2003, is amended by adding
4 22 the following new subsection:
4 23 NEW SUBSECTION. 34A. For purposes of this subsection,
4 24 "out-of-state qualified state tuition program" or "program"
4 25 means a qualified state tuition program established in a state
4 26 other than Iowa which meets the requirements of section 529 of
4 27 the Internal Revenue Code.
4 28 a. Subtract the maximum contribution that may be deducted
4 29 for Iowa income tax purposes as a participant in the Iowa
4 30 educational savings plan trust pursuant to section 12D.3,
4 31 subsection 1, paragraph "a", for contributions made to an out=

4 32 of=state qualified state tuition program.
4 33 b. Add the amount resulting from the cancellation of a
4 34 participation agreement refunded to the taxpayer as a
4 35 participant in the out-of=state qualified state tuition
5 1 program to the extent previously deducted as a contribution to
5 2 the program.
5 3 c. Subtract, to the extent included, income from interest
5 4 and earnings received from the out-of=state qualified state
5 5 tuition program.
5 6 d. Subtract, to the extent not deducted for federal income
5 7 tax purposes, the amount of any gift, grant, or donation made
5 8 to the out-of=state qualified state tuition program for
5 9 deposit in the endowment fund, if any, of that program.
5 10 Sec. 14. Section 422.35, subsection 14, Code 2003, is
5 11 amended by striking the subsection.
5 12 Sec. 15. EFFECTIVE AND APPLICABILITY DATES. This Act,
5 13 being deemed of immediate importance, takes effect upon
5 14 enactment and applies retroactively to January 1, 2003, for
5 15 tax years beginning on or after that date.
5 16 SF 384
5 17 mg/cc/26